

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0139P
Sales and Withholding Taxes
Various Periods for the Years 2000, 2001, and 2002

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer filed and paid several of its ST103's and WH-1's late and was assessed a late payment penalty. In a letter dated March 24, 2003, taxpayer protests the penalty assessed because it had corporate policies and internal control procedures that met the standards required for approval of its financial statements. Taxpayer's representative states that it would have discovered the noncompliance prior to its periodic financial review, had it not been for the taxpayer's mandatory vacation policy. Taxpayer requests a penalty waiver because it was not careless in its duty to file and remit tax to the state.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a ten percent (10%) penalty for each of its Sales and Withholding Tax returns because it paid its tax after the due date.

Taxpayer's representative states that its client not only has the controls normally used by most businesses, but also has implemented a level of control not normally found in this type of business. Possibly due to employee turnover in 2001, compliance deteriorated and taxpayer's representative believes it would have discovered this failure in the process of the next periodic financial review. Taxpayer's mandatory vacation policy exposed this noncompliance prior to the representative's periodic financial review.

Taxpayer's records indicate it currently has outstanding liabilities for the late filing of sales tax returns that includes 8/31/2001, 10/31/2001, 11/30/2001, 12/31/2001, 1/31/2002, 2/28/2002, 3/21/2002, 4/30/2002, 5/31/2002, 6/30/2002, and 9/30/2002. Withholding Tax Late Liabilities include 8/31/2001, 10/31/2001, 11/30/2001, 2/28/2002, 3/31/2002, 4/30/2002, 5/31/2002, 6/30/2002, and 9/30/2002.

Taxpayer apparently has no procedures in place to assure that its taxes are filed and paid timely and has not provided reasonable cause to allow a waiver of the penalties assessed.

FINDING

Taxpayer's protest is denied.